

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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TINA M. MAHAFFEY,

Plaintiff-Appellant,

v

MARK E. MAHAFFEY,

Defendant-Appellee.

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UNPUBLISHED  
September 3, 1999

No. 209105  
Jackson Circuit Court  
LC No. 97-079282 DM

Before: Markman P.J., and Saad and P. D. Houk\*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from that portion of the judgment of divorce requiring that the domicile of her minor child be located in Jackson County. We vacate the judgment in part. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff and defendant are the parents of a daughter, Ciarria (DOB 6-16-95). The judgment of divorce awarded plaintiff sole legal and physical custody of Ciarria. The judgment provided that during those periods in which plaintiff held seasonal employment Ciarria's domicile could be removed to Ohio; during all other periods, Ciarria's domicile was to be located in Jackson County.

We review a question of law for clear legal error. *Schoensee v Bennett*, 228 Mich App 305, 312; 577 NW2d 915 (1998).

We vacate that portion of the judgment of divorce restricting Ciarria's domicile to Jackson County during those periods in which she is present in Michigan. While the domicile of a minor child subject to a custody order cannot be removed from Michigan without the approval of the court who awarded custody, MCR 2.311(C)(1), an intrastate change of domicile requires no court approval. The custodial parent need only notify the Friend of the Court of the move. MCR 2.311(C)(2); *Dehring v Dehring*, 220 Mich App 163, 166; 559 NW2d 59 (1996). In the instant case, the trial court lacked authority to restrict Ciarria's Michigan domicile to Jackson County.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

We vacate that portion of the judgment of divorce restricting the Michigan domicile of the minor child, Ciarria, to Jackson County. The remainder of the judgment stands as written. We do not retain jurisdiction.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk